

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: WELDON STUTZMAN
DEPUTY ATTORNEY GENERAL**

DATE: OCTOBER 21, 2009

**SUBJECT: IDAHO POWER'S APPLICATION FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY FOR THE COLUMBIA
SUBSTATION AND RELATED 138 kV TRANSMISSION LINE, CASE
NO. IPC-E-09-26**

On September 14, 2009, Idaho Power Company filed an Application requesting an order granting the Company a Certificate of Public Convenience and Necessity for the construction of the Columbia Substation, the Columbia to Kuna 138 kV transmission line, reconstruction of the Caldwell to Hubbard 230 kV transmission line, Columbia distribution circuits, and related facilities to provide service to the Kuna, Idaho area. More specifically, the Company requests that the Commission find it to be in the public convenience and necessity that Idaho Power construct these facilities in and around the City of Kuna's area of impact and within the City's proposed "Overlay District." Idaho Power requests, if the City of Kuna requires that the facilities be constructed underground or on a route outside of the Overlay District, that the Commission authorize Idaho Power to collect the additional costs through a surcharge added to the rates of the Company's customers within the boundaries of the City of Kuna.

Idaho Power's Application asserts that, despite offers and efforts by the Company to work with the City of Kuna, the City has moved forward with the approval and enactment of an Overlay District ordinance that bans new overhead power poles and restricts existing poles to their current height within the Overlay District. The new Columbia Substation, the Columbia to Kuna 138 kV transmission line, portions of the Caldwell to Hubbard 230 kV transmission line and other associated transmission and distribution facilities fall within the designated Overlay

District. While Idaho Power concedes that the specific siting of facilities is generally an area of local concern, the Company asserts that the Legislature has granted the Commission ultimate authority for determining whether the public interest, convenience, and necessity require the construction of certain facilities “by expressly providing that land use actions or orders of other governmental agencies or local governments that are in conflict with an order of the commission are null and void. *Idaho Code* § 67-6528.” Idaho Power Application, p. 16.

Idaho Power asks that the Commission find it to be in the present and future public convenience and necessity that the Company constructs facilities in the City of Kuna’s area of impact and within the City’s proposed Overlay District. Idaho Power requests that if the City of Kuna requires that the facilities be constructed underground or on a route outside of the Overlay District so that costs are increased, that the Commission order Idaho Power to file tariffs establishing a surcharge to be added to the rates of the Company’s customers within the boundaries of the City of Kuna to recover the additional incremental costs.

Staff recommends that the Commission issue a Notice of Application and Notice of Intervention Deadline to begin the processing of Idaho Power’s Application.

COMMISSION DECISION

Should the Commission issue a Notice of Application and Notice of Intervention Deadline to initiate the process for Idaho Power’s Application?

A handwritten signature in black ink, appearing to read 'WBS', followed by a horizontal line.

Weldon B. Stutzman
Deputy Attorney General

bls/M:IPC-E-09-26_ws